IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2504 OF 1992

Shri Pandurang Hari Mhatre ..Petitioner.

Vs.

The State of Maharashtra
& Ors. ..Respondents.

Mr.P.M.Khankar, Advocate for the Petitioner.

Mr.R.M.Mokashi, A.G.P. for the State.

Mr.Sawant for Respondent Nos.3 & 6.

**CORAM: S.RADHAKRISHNAN AND
S.J.VAZIFDAR, JJ.**

DATED: 21ST SEPTEMBER, 2004

P.C. :

Heard the learned counsel for the Petitioner, Mr.Sawant for Respondent Nos.3 and 6 and Mr.Mokashi, the learned Government Pleader.

2. By this Petition, the Petitioner Pandurang Hari Mhatre is seeking a relief that Respondent Nos.1 and 3 i.e. Government of Maharashtra and CIDCO should constitute a new Corporation under the provisions of Road Transport Corporations Act, 1950 in place of Bombay Metropolitan Transport Company Ltd. which went in liquidation. It appears that the Petitioner

was one of the former employees of the said Bombay Metropolitan Transport Company Ltd. The Petitioner also prays that after formation of the said new Corporation the new Corporation should recruit workmen and employees of the Bombay Metropolitan Transport Company Ltd. therein in terms of the undertaking given to this Court as per the order passed in Appeal No.747 of 1987 by the Division Bench.

3. It appears that this Petition has been filed by Pandurang Hari Mhatre purporting to be in a representative capacity contending that he is a member of the Action Committee, representing the employees of the Bombay Metropolitan Transport Company Ltd. which went into liquidation. Admittedly, the Petitioner has not even prayed for leave under Order 1 Rule 8 of the C.P.C. No such relief has also been granted by this Court. Under these circumsances, this Petition can only be treated as a Petition filed by the Petitioner alone.

4. It appears that the aforesaid Bombay Metropolitan Transport Company Ltd. went into liquidation and by the aforesaid order in the said Appeal No.747 of 1987 dated 5th September, 1990 and 6th September, 1990 the

Court has observed with regard to the recruitment of the employees as under :

> "The consent terms also provided that the new corporation that was proposed to be established by the Government under the Road Transport Corporation Act, 1950, would consider, the applications of former workers and employees of the company at the time of recruiting staff but would be free to absorb or employ such workers or employees as it, in its discretion, thought fit after screening."

5. It appears that subsequently a new Corporation has been formed in place of Bombay Metropolitan Transport Company Ltd., known as the Navi Mumbai Municipal Transport Undertaking.

6. Perused the affidavit of Shivraj Ganpatrao Rane, Deputy Transport Manager of the Navi Mumbai Municipal Transport Undertaking dated 20th September, 2004 filed by behalf of Respondent No.5 wherein it appears that after the said Corporation was formed, advertisement was issued on 16.11.1995 for various posts. Pursuant to the said advertisement, it appears that a large number of Ex-Bombay Metropolitan Transport Company Ltd. employees had applied and as

per the assurance given by the State Government the relaxation of the age was also given upto 45 years. It appears that thereafter another advertisement was also issued wherein similar age relaxation was given for Ex-Bombay Metropolitan Transport Company Ltd. employees and as a consequence of the said two advertisements, 294 Ex-Bombay Metropolitan Transport Company Ltd. employees were granted employment in various posts as mentioned in paragraph 3 of the said affidavit. The affidavit also points out that the Petitioner has also not obtained any leave from this Court under Order 1 Rule 8 of the C.P.C.

7. The learned counsel for the Petitioner fairly states that the Petitioner had not applied for any post in pursuance of the said two advertisements issued in the year 1995 and 1996.

8. Having considered all the facts and circumstances, specially, in view of the fact that the Petitioner has not obtained leave under Order 1 Rule 8 of the C.P.C., at the most the Petitioner can pursue the Petition only on his behalf. He has not even applied for any post pursuant to the aforesaid two advertisements issued in the year 1995 and 1996.

9. Under these circumstances, we do not find anything perverse or illegal on the part of Respondent No.6 in not recruiting the Petitioner.

10. The Petition is therefore devoid of merits hence stands dismissed.

(S.Radhakrishnan, J.)

(S.J. Vazifdar, J.)